

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT LAWS and STEPHEN PATRICK MORICE

Application No. 10/070,228

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

MAILED

MAR 28 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

This application was received electronically at the Board of Patent Appeals and Interferences (BPAI) on March 9, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are outlined below:

The examiner's answer mailed November 23, 2005, does not fully comply with the headings as set forth under 37 CFR § 41.37(c). The heading "**(8) Evidence Relied Upon**" lacks the content specific to it. ***The Manual Of Patent Examining Procedure (MPEP)*** § 1207.02(A)(8) (8th ed., Rev. 3, Aug. 2005) states in-part:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner states under heading "(8)" in the answer that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal." It has been determined that the examiner does in fact rely upon reference evidence, the following patents are applied in the 35 U.S.C. § 103(a) rejections on appeal:

Manin	4,136,754	Jan. 30, 1979
Ray	4,493,061	Jan. 8, 1985
Lugg	GB 2 148 503 A	May 30, 1985
Haughland et al.	4,721,180	Jan. 26, 1988
Huizer	4,727,956	Mar. 1, 1988
Sallas	4,918,668	Apr. 17, 1990
Barber et al.	5,469,404	Nov. 21, 1995
Yang	5,535,176	Jul. 9, 1996
Bouyoucos	WO 97/06452	Feb. 20, 1997
Barr	5,724,306	Mar. 3, 1998

Further review has found that the following heading and content is also missing from the answer mailed November 23, 2005:

(1) Real Party in Interest. A statement acknowledging that the brief has identified by name the real party in interest. [M.P.E.P. § 1207.02(A)(1).]

Correction is required.

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Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to issue a revised examiner's answer that complies with the requirements of heading "**(8) Evidence Relied Upon**" as noted above,
- 2) to supply the missing heading and content "**(1) Real Party In Interest**" in accordance with **MPEP § 1207.02(A)(1)**; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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By:



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